

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2245.05
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: April 13, 2005
DATE OF REPORT: May 11, 2005
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: June 20, 2005

COMPLAINT ISSUES:

Whether the MSD Lawrence Township violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to implement the student's crisis behavior plan.

FINDINGS OF FACT:

1. The Student has been identified as having an emotional disability (ED) and has been determined eligible for special education and related services.
2. The Student is in a self-contained classroom for students with emotional disabilities and has a history of incidents of out-of-control behavior. The Student has been on a therapeutic level of drugs to address his behavioral and mental concerns. In November of 2004, a case conference committee (CCC) meeting was held to develop an addendum to the Student's IEP. Specifically, a crisis plan was developed for times when the Student's behavior escalates and periods of disruption are not brought under control within a 45 to 60 minute time period. Step 1 of the plan established that Benadryl could be administered when there are prolonged periods of aggression. This was to be implemented "...as prescribed by the doctor." After the start of a new calendar year, the Student's doctor adjusted the Student's therapeutic drugs due to a three-week mental health hospitalization. On February 22, 2005, the school nurse wrote the doctor a letter asking whether it was still appropriate and safe to give the Student Benadryl in combination with the new medication doses. The Complainant wrote a letter in response stating that it was fine. The school nurse pursued the matter with the Complainant and stated that either the nurse needed to talk to the doctor or that a letter from the doctor stating it was safe was required before following the Crisis Plan as written.
3. On February 28, 2005, the Student had an aggressive behavioral incident at school. When the Student had not settled down after 45 minutes the Complainant was called. Benadryl was not administered to the Student. The School recommended that since the Student had not de-escalated, the Complainant might want to move to Step 2 of the Student's Crisis Plan and take the Student to the hospital crisis center for treatment. The Complainant stated that she wanted the School to take the Student to the crisis center. The School informed the Complainant that they could accompany the Complainant, but could not independently take a student. The School stated that it could not fill in as the parental role in an emergency situation. The Complainant picked the Student up.
4. On April 12, 2005, after four attempts to convene the Student's case conference with the parents to review and revise the Crisis Plan, all members of the CCC, except for the parents, arrived since they

did not have advance warning that the parents would not attend. The group decided not to conduct the CCC. The Office of Family and Children (OFC) was contacted since the Complainant had informed the Student's teacher of record that she was giving up her parental rights for custody of the Student. The OFC confirmed that it now had guardianship of the Student through the Child In Need Of Services process and faxed documents confirming this as fact.

CONCLUSIONS:

Findings of Fact #2 and #3 indicate that the School failed to follow Step 1 of the Student's Crisis Plan. The School should have determined as soon as possible what the Student's doctor recommended with regard to the administration of Benadryl. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

MSD Lawrence Township shall:

Submit to the Division documentation indicating whether an educational surrogate has been trained and assigned to the Student. Also, reconvene the Student's CCC to review or revise the IEP and Crisis Plan. Submit to the Division a copy of the CCC Report/IEP no later than June 17, 2005.